

10 AUG 2007  
1FW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 10/534,055 Confirmation No.: 2702  
Applicant : George P. TEITELBAUM, *et al.*  
Filed : March 25, 2003  
Title : TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND  
DEVICES  
TC/Art Unit : Unassigned  
Examiner: : Unassigned  
  
Docket No. : 64118.000192 (MED-032 US)  
Customer No. : 70813

MAIL STOP PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Under the authority of 37 C.F.R. §1.181(A), and in accordance with MPEP §711.03(c)(I) applicants respectfully petition the U.S. Patent and Trademark Office (PTO) to withdraw the improper abandonment of the above-captioned application due to PTO's error.

The PTO mailed a Notice of Abandonment on May 31, 2007 to the undersigned's prior firm, Hunton & Williams. The undersigned did not receive the Notice of Abandonment until sometime in July, 2007. This petition therefore is timely filed.

The Notice of Abandonment states that the application became abandoned because applicant failed to file timely to the second 37 CFR 1.47(a) decision mailed 01 August 2006.

Applicants timely responded, however, to the Decision on Renewed Petition Under 37 C.F.R. §1.47(a) received by Hunton and Williams LLC, on August 9, 2006 (no mailing date was on correspondence) by filing a Request for One-Month Extension of Time and Submission of Third Petition Under 37 C.F.R. §1.47(a) on October 11, 2006, via facsimile. Copies of the Notice of Abandonment, the complete filing on October 11, 2006, and the Acknowledgement of Receipt received from the United States Patent and Trademark Office, are enclosed for your convenience.

Applicants believe that no additional fees are due for filing this petition. In the event any additional fees are required, the Commissioner is authorized to charge all required fees, under 37 C.F.R. §1.17, or all required extension of time fees, to the undersigned's Deposit Account No. 07-1700.

Respectfully submitted,

Dated: 8/10/07

By: 

Patrick A. Doody  
Registration No. 35,022

Tel No. (202) 346-4128  
Fax No. (202) 346-4444

Goodwin Procter LLP  
901 New York Avenue, NW  
Washington, DC 20001  
Goodwin Customer No. 000070813



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

PAO-TMM-RAK

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/534,055	George P Teitelbaum	64118.000192

INTERNATIONAL APPLICATION NO.
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PCT/US03/09285

I.A. FILING DATE	PRIORITY DATE
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03/25/2003

21967  
HUNTON & WILLIAMS LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

CONFIRMATION NO. 2702

371  
ABANDONMENT/TERMINATION  
LETTER



\*OC000000024167034\*

B 6-6-07  
DOCKETED  
Transferred

Date Mailed: 05/31/2007

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to file timely to the second 37 CFR 1.47(a) decision mailed 01 August 2006.

64118.192

- 307

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

PATRICIA A BOOKER

Telephone: (703) 308-9140 EXT 204

PART 3 - OFFICE COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

TO: Auto-reply fax to 4048884190 COMPANY:

## Auto-Reply Facsimile Transmission



TO: Fax Sender at 4048884190

Fax Information  
Date Received: 10/11/2006 10:05:20 AM [Eastern Daylight Time]  
Total Pages: 7 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

=====&gt;

OCT-11-06 10:11 FAX FROM HUNTON & WILLIAMS 4048884190 1-604 P.01 100-001	
<b>HUNTON &amp; WILLIAMS</b>	
430 PEACHTREE STREET, NE SUITE 400 ATLANTA, GA 30309	
TEL 404-523-4000 FAX 404-523-4100	
FAX	
TO	NAME MAIL STOP PCT LEGAL ADMINISTRATION JAMES THOMSON U.S. Patent and Trademark Office 571-273-6300
FROM	NAME Robert A. King FLOOR 33rd Floor DIRECT DIAL 404-688-4138
MESSAGE	In re Application Of: TETTELBAUM, et al. Examiner: Unassigned Application No.: 10634063 An Unit: Unassigned Filed: May 8, 2006 Document No.: 64118.000192 Title: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES
In accordance with 37 C.F.R. §§ 1.97 and 1.99, I hereby certify that the attached correspondence entitled REQUEST FOR ONE-MONTH EXTENSION OF TIME AND SUBMISSION OF THIRD PETITION UNDER 37 CFR § 1.47(a) is being facsimile transmitted to the United States Patent and Trademark Office on Monday, October 2, 2006.	
Signature: <u>Robert A. King</u> Typed or Printed Name of Person Signing Certificate: ROBERT A. KING Registration No., if applicable: 42,728	
IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT STEPHEN HUNTER AT 404-688-4327	
OPERATOR	DATE October 11, 2006 TIME CLIENT/MATTER NAME: CLIENT/MATTER NO.: 64118.000192
This communication is confidential and is intended to be privileged pursuant to the attorney-client privilege and the work-product doctrine. If the recipient of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.	
PAGE 01 * RCVD AT 10/11/2006 10:07:40 AM [Eastern Daylight Time] * SVR:RIRIGHTFAX/0 * DNIS:49050 * CSID:USPTO * DURATION (mm-ss):01-38	

10/11/2006 10:11  
X 10/11/06

**CONFIRMATION REPORT - MEMORY SEND**

Time : OCT-11-06 10:17  
Fax number: 4048884190  
Name : HUNTON & WILLIAMS

Job : 693  
Date : OCT-11 10:15  
To : #1641180000192915712738300  
Doc. pages : 07  
Start time : OCT-11 10:15  
End time : OCT-11 10:17  
Pages sent : 07

Job:693 \*\*\* SEND SUCCESSFUL \*\*\*

**HUNTON &  
WILLIAMS**

600 PEACHTREE STREET, NE  
SUITE 4100  
ATLANTA, GA 30308

TEL 404 • 888 • 4000  
FAX 404 • 888 • 4191

**TO** NAME **MAIL STOP PCT LEGAL ADMINISTRATION**  
FIRM James Thomson  
FAX NO.: U.S. Patent and Trademark Office  
PHONE NO.: 671-273-8300  
PAGES (INCLUDING COVER): 7  
ORIGINAL TO FOLLOW IN MAIL: ☒ Yes ☐ No

**FROM** NAME: Robert A. King  
FLOOR: 39th Floor  
DIRECT DIAL: 404-888-4136

**MESSAGE** In re Application Of: **TEITELBAUM, et al.** Examiner: Unassigned  
Application No.: 10/534,055 Art Unit: Unassigned  
Filed: May 6, 2005 Docket No.: 64118.000192  
Title: **TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES**

In accordance with 37 C.F.R. §§ 1.97 and 1.98, I hereby certify that the attached correspondence entitled **REQUEST FOR ONE-MONTH EXTENSION OF TIME AND SUBMISSION OF THIRD PETITION UNDER 37 CFR § 1.47(a)** is being facsimile transmitted to the United States Patent and Trademark Office on **Monday, October 2, 2006**.

Signature:   
Typed or Printed Name of Person Signing Certificate: **ROBERT A. KING**  
Registration No., if applicable: **42,738**

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT STEFANIE NUTTING AT 404 • 888 • 4027

**OPERATOR**

DATE: October 11, 2006  
TIME:  
CLIENT/MATTER NAME:  
CLIENT/MATTER NO.: 64118.000192

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**HUNTON &  
WILLIAMS**

600 PEACHTREE STREET, NE  
SUITE 4100  
ATLANTA, GA 30308

TEL 404 • 888 • 4000  
FAX 404 • 888 • 4191

**FAX**

**TO** **NAME** **MAIL STOP PCT LEGAL ADMINISTRATION**  
**James Thomson**  
**FIRM** **U.S. Patent and Trademark Office**  
**FAX NO.:** **571-273-8300**  
**PHONE NO.:**  
**PAGES (INCLUDING COVER):** **7**  
**ORIGINAL TO FOLLOW IN MAIL:** ☒ **Yes** ☐ **No**

**FROM** **NAME:** **Robert A. King**  
**FLOOR:** **39<sup>th</sup> Floor**  
**DIRECT DIAL:** **404-888-4136**

**MESSAGE** **In re Application Of: TEITELBAUM, et al.** **Examiner: Unassigned**  
**Application No.: 10/534,055** **Art Unit: Unassigned**  
**Filed: May 6, 2005** **Docket No.: 64118.000192**  
**Title: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES**

In accordance with 37 C.F.R. §§ 1.97 and 1.98, I hereby certify that the attached correspondence entitled **REQUEST FOR ONE-MONTH EXTENSION OF TIME AND SUBMISSION OF THIRD PETITION UNDER 37 CFR § 1.47(a)** is being facsimile transmitted to the United States Patent and Trademark Office on Monday, October 2, 2006.

Signature: \_\_\_\_\_

Typed or Printed Name of Person Signing Certificate: ROBERT A. KING

Registration No., if applicable: 42,738

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT STEFANIE NUTTING AT 404 • 888 • 4027

**OPERATOR**

**DATE:** **October 11, 2006**  
**TIME:**  
**CLIENT/MATTER NAME:**  
**CLIENT/MATTER NO.:** **64118.000192**

This communication is confidential and is intended to be privileged pursuant to the attorney-client privilege and the work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.



## DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

### TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES

the specification of which: ☐ is attached hereto.  
☒ was filed on: May 6, 2005  
as United States Application No.: 10/534,055  
or PCT International Application No.: \_\_\_\_\_  
and was amended on: \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

### Prior Foreign Application(s)

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Prior Provisional Application(s)**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,942	8, November, 2002

**Prior United States Application(s)**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER**  
**21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER**  
**21967**

corresponding to the law firm of Hunton & Williams LLP; Intellectual Property Department; 1900 K Street, N.W.; Suite 1200; Washington, DC 20006-1109; telephone number (202) 955-1500; facsimile number (202) 778-2201.

HUNTON & WILLIAMS LLP  
Intellectual Property Department  
1900 K Street, N.W.  
Suite 1200  
Washington, DC 20006-1109  
(202) 955-1500 (telephone); (202) 778-2201 (facsimile)



I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

**NAME OF SOLE OR FIRST INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **George P.** Family Name or Surname **TEITELBAUM**  
Citizenship: **US**  
Residence: **Santa Monica, CA**  
Mailing Address: **325 16<sup>th</sup> Street, Santa Monica, CA 90402-2217**

**NAME OF SECOND INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **Samuel M.** Family Name or Surname **SHAOLIAN**  
Citizenship: **US**  
Residence: **Newport Beach, CA**  
Mailing Address: **2315 Arbutus Street, Newport Beach, CA 92660**

**NAME OF THIRD INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **Thanh Van** Family Name or Surname **NGUYEN**  
Citizenship: **US**  
Residence: **Irvine, CA**  
Mailing Address: **4752 Roxbury Drive, Irvine, CA 92604**

**NAME OF FOURTH INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature *Frank Nguyen* Date *Oct 09, 2006*  
Given Name (first and middle (if any)) **Frank** Family Name or Surname **NGUYEN**  
Citizenship: **US**  
Residence: **Superior, CO**  
Mailing Address: **1995 E. Goalton Road, #77-203, Superior, CO 80027**  
**4739 WILDGRASS PL. DAcono, CO 80514**

**NAME OF FIFTH INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **To V.** Family Name or Surname **PHAM**  
Citizenship: **US**  
Residence: **Trubuco Canyon, CA**  
Mailing Address: **28422 Pueblo Drive, Trubuco Canyon, CA 92679**

**NAME OF SIXTH INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **Vincent** Family Name or Surname **DIVINO, Jr.**  
Citizenship: **US**  
Residence: **Mission Viejo, CA**  
Mailing Address: **24436 Muela, Mission Viejo, CA 92692**

**NAME OF SEVENTH INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **Michael R.** Family Name or Surname **HENSON**  
Citizenship: **US**  
Residence: **Coto de Casa, CA**  
Mailing Address: **2 Via Presea, Coto de Casa, CA 92679**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
TEITELBAUM *et al.* ) Group Art Unit: Unassigned  
 )  
Application Number: 10/534,055 ) Examiner: Unassigned  
 )  
Filed: May 6, 2005 )  
 )  
For: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS  
METHODS AND DEVICES

**REQUEST FOR ONE-MONTH EXTENSION OF TIME AND  
SUBMISSION OF THIRD PETITION UNDER 37 C.F.R. § 1.47(a)**

**MAIL STOP PCT LEGAL ADMINISTRATION**  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**REQUEST FOR ONE-MONTH EXTENSION OF TIME**

Applicants respectfully request a one-month extension of time under 37 C.F.R. § 1.136(a) for responding to the Office Action mailed on August 1, 2006. Accordingly, the time for response will be extended up to and including November 1, 2006. Please charge Deposit Account No. 50-0206 \$250, part of which covers the one-month extension of time fee of \$120.

**SUBMISSION OF THIRD PETITION UNDER 37 C.F.R. § 1.47(a)**

Applicants submit concurrently herewith a Third Petition Under 37 C.F.R. § 1.47(a) petitioning the Commissioner to accept its application Serial No. 10/534,055. Joint inventors George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., Michael R. Henson, and Frank Nguyen have previously filed a Declaration. Attached is a signed Declaration by Frank Nguyen.

**FEES**

Please charge Deposit Account No. 50-0206 for the following fees:

One-Month Extension of Time      \$120.00

Late Declaration Surcharge      \$130.00

**TOTAL AMOUNT ENCLOSED      \$250.00**

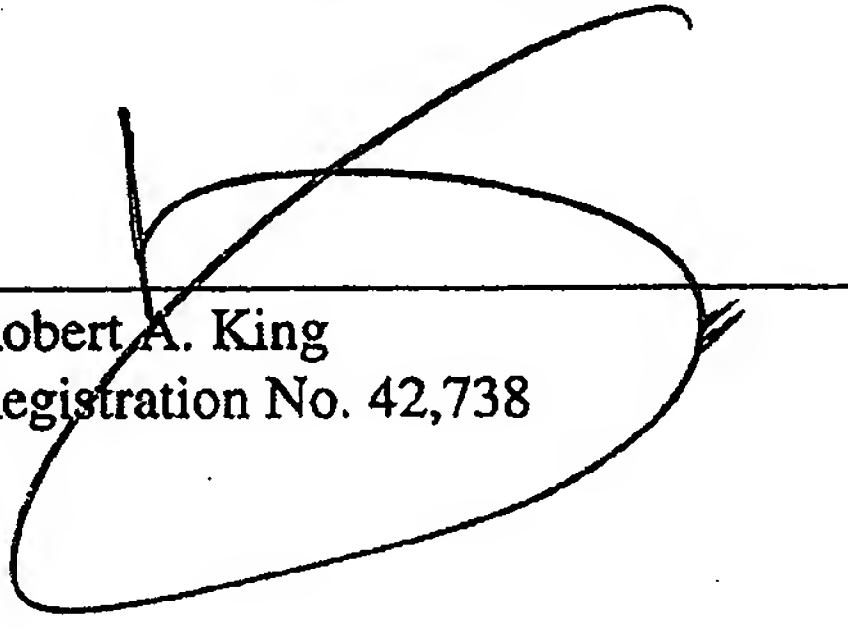
In the event any variance exists between the amount enclosed and the amount determined by the USPTO to enter this Response or maintain the present application pending, please charge or credit such variance to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Date: October 11, 2006

By:

  
Robert A. King  
Registration No. 42,738

HUNTON & WILLIAMS LLP  
1900 K Street, N.W., Suite 1200  
Washington, D.C. 20006-1109  
(202) 955-1500 (telephone)  
(202) 778-2201 (facsimile)